

Assembly Bill No. 1912

Passed the Assembly August 16, 2010

Chief Clerk of the Assembly

Passed the Senate August 11, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Chapter 28 (commencing with Section 79601) to Part 2 of Division 22 of the Food and Agricultural Code, relating to bees, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1912, Evans. California Apiary Research Commission.

(1) Existing law establishes various commissions to, among other things, promote agricultural products from the state and to conduct research and consumer education relating to those products.

This bill would create the California Apiary Research Commission in state government with a prescribed membership, and would specify the powers, duties, and responsibilities of the commission. The commission would be authorized to conduct research and education programs relating to honeybees and the beekeeping industry. The bill would authorize the commission to levy an assessment, as provided, on bee producers, as defined, and would authorize the expenditure of those funds for purposes of implementing and administering the bill's provisions, thereby making an appropriation.

The bill, except as necessary to conduct an election, would not become operative until the producers, by referendum, vote in favor of the bill's provisions, as prescribed. The bill would provide that within 30 days after the effective date of the bill's provisions, the Secretary of Food and Agriculture shall, as specified, issue a public notice that the Department of Food and Agriculture is preparing a list of beekeepers who are eligible and may register, as specified, to vote on the implementation of these provisions. The bill would provide that a civil penalty not exceeding \$1,000 may be levied by the commission upon a person who willfully renders or furnishes a false report, statement, or record; fails to render or furnish a report, statement, or record required by the commission; affects the shipment of pollination units, bees, honey, or hive products to avoid payment of assessments; or secretes, destroys, or alters records that are required to be kept. The bill would authorize the commission to bring certain civil actions and other remedies to

enforce the bill's provisions and regulations adopted pursuant to these provisions. The bill would also provide for the continuation and suspension of the operation of its provisions and for concluding the operations of the commission, including requiring the secretary to hold a public hearing every 5 years, as specified.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 28 (commencing with Section 79601) is added to Part 2 of Division 22 of the Food and Agricultural Code, to read:

CHAPTER 28. CALIFORNIA APIARY RESEARCH COMMISSION

Article 1. Declaration and General Provisions

79601. The California beekeeping industry provides critical pollination services to growers of over 90 California agricultural crops that constitute one-third of our daily diet and 37.5 percent of California's total agricultural production. Additionally, California beekeepers rank in the top four states annually in honey production. The industry provides substantial and necessary revenues for the state and for its citizens.

79602. The establishment of the commission is necessary for the efficient creation and management of a research program to protect the health of honeybees, an integrated approach to manage pests and diseases common to honeybees, and to develop more efficient colony management practices. The commission is also necessary to ensure the existence of the segment of the industry that provides one-half of the queen bees, bulk bees, and starter colonies to other beekeepers throughout the United States and Canada. The commission is also necessary for the efficient development and management of state and national education

programs that, combined with research, will enhance the competitiveness of the California beekeeping industry worldwide.

79603. The provision of pollination services, production of honey, bees, queen bees, and other hive products in this state is hereby declared to be affected with a public interest. This chapter is enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

79604. The commission form of administration created by this chapter is designed to provide those engaged in beekeeping the opportunity to avail themselves of the benefits of collective action in the broad field of apiary research necessary to achieve the purposes stated in this chapter.

79605. No action taken by the commission or by any individual commission member, that is in accordance with this chapter or with regulations adopted under this chapter, is a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or any statutory or common law against monopolies or combinations in restraint of trade.

79606. This chapter shall be liberally construed. If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Article 2. Definitions

79611. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

79612. “Apiary” means the physical location where beekeepers place one or more colonies of honeybees. As an adjective, “apiary” means pertaining to any aspect of beekeeping or the beekeeping industry.

79613. “Beekeeper” means a person who keeps bees.

79614. “Bees” means honey-producing insects of the genus *Apis*. It includes all life stages of these insects. For purposes of this chapter, bees and honeybees are interchangeable terms.

79615. “Books and records” means books, records, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to matters relating to the activities subject to this chapter.

79616. “Colony” means the queen, the adult worker and drone bees, and the brood (eggs, larvae, and pupae) living together in a single society.

79617. “Commission” means the California Apiary Research Commission.

79618. “Department” means the Department of Food and Agriculture.

79619. “Districts” consist of the following:

(a) District 1 consists of the California Counties of El Dorado, Marin, Napa, Sacramento, Solano, Sonoma, and all counties north of these counties.

(b) District 2 consists of the California Counties of Inyo, Kern, San Luis Obispo, and all counties north of these counties up to the southern boundary of District 1.

(c) District 3 consists of the California counties south of District 2.

(d) District 4 consists of all areas not in California.

79620. “Ex officio members” are nonvoting members of the commission.

79621. “Hive” means the structure containing a honeybee colony.

79622. “Hive products” means materials collected or generated by honeybees, other than bees and honey, including, but not limited to, beeswax, pollen, royal jelly, venom, and propolis.

79623. “Fiscal year” means the period beginning January 1 of any year and extending through the last day of December of that same year.

79624. “Out-of-state beekeeper” means a producer whose principal residence is in an area outside of California.

79625. “Pest” means American foulbrood or any other disease, parasite, virus or fungus, predator, or hereditary disorder that is detrimental to honeybees.

79626. “Pollination unit” means a colony of adequate strength to meet the criteria delineated in a pollination contract for use in commercial crop pollination.

79627. “Principal residence” means where the producer pays his or her state and local income tax.

79628. “Producer” means an individual beekeeper or business who owns or operates, or owns and operates, more than 50 colonies in California, with the intent to earn income.

79629. “Secretary” means the Secretary of Food and Agriculture.

Article 3. The California Apiary Research Commission

79631. (a) There is in the state government the California Apiary Research Commission. The commission shall be composed of six assessment-paying producers and one public member. Producers without reference to districts shall elect one producer member with principal residence from each of districts 1, 2, 3, and 4, and two producers at large without reference to districts. The public member shall be appointed to the commission by the secretary based on the recommendation from the commission.

(b) The secretary and other appropriate persons, as determined by the commission, shall be ex officio members of the commission.

79632. (a) The secretary may require the commission to correct or cease any existing activity or function that is determined by the secretary to be in violation of this chapter or not to be in the public interest.

(b) If the commission refuses or fails to cease those activities or functions or to make corrections as required by the secretary, the secretary may, upon written notice, suspend all or a portion of the activities or functions of the commission until such time as the cessation or correction of activities or functions as required by the secretary has been accomplished by the commission.

(c) Actions of the commission in violation of the secretary’s written notice shall be without legal force or effect. The secretary, to the extent feasible, shall issue the written notice prior to the commission entering into any contractual relationship affecting the existing or proposed activities or functions that are the subject of the written notice.

(d) Upon service of the written notice, the secretary shall notify the commission in writing of the specific acts that he or she determines are not in the public interest or are in violation of this chapter, and his or her reasons for requiring a cessation or correction of specific existing or proposed activities or functions, and may make recommendations that will make those activities or functions acceptable to him or her.

79633. The commission or the secretary may bring an action for judicial relief from the secretary's written notice, or from noncompliance by the commission with the written notice, in a court of competent jurisdiction, which may issue a temporary restraining order, permanent injunction, or other applicable relief.

79634. The commission shall reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities under this chapter. However, a court may, if it finds that the secretary acted arbitrarily or capriciously in restricting the activities or functions of the commission, relieve the commission of the responsibility for payment of the secretary's legal costs with regard to that action.

79635. Each producer member of the commission shall have an alternate member appointed or elected in the same manner as the member. An alternate member, in the absence of the member for which he or she is an alternate, shall serve in place of the member on the commission. An alternate member may also serve in place of any other absent member, if the member's alternate is also absent. However, an alternate may not serve in place of more than one absent member at a meeting. An alternate member serving in place of a member shall have and be able to exercise all rights, privileges, and powers of the member when serving on the commission. In the event of death, removal, resignation, or the disqualification of a member, the alternate for that member, or another alternate if the alternate for the absent member is also absent, shall act as a member on the commission until a qualified successor is elected.

79635.5. The public member shall have an alternate member appointed in the same manner as the public member. The alternate public member, in the absence of the public member, shall serve in place of the public member. The alternate public member serving in place of the public member shall have and be able to exercise all rights, privileges, and powers of the public member when

serving on the commission. In the event of death, removal, resignation, or the disqualification of the public member, the alternate public member shall act as the public member on the commission until a qualified successor is appointed.

79636. Any vacancy on the commission, including, but not limited to, the failure of any person elected to the commission as a member or alternate member to continue in his or her position due to a change in status making him or her ineligible to serve, or due to death, removal, or resignation, shall be filled by the appointment of another person, for the unexpired portion of the term, by a majority vote of the commission. However, the appointee shall fulfill all the qualifications set forth in this article as required for the office he or she is to occupy.

79637. A producer member, or his or her alternate, shall be an assessment-paying beekeeper who has a financial interest in producing, or causing to be produced, pollination units, bees, honey, or hive products for market. The producer member or his or her alternate shall be so qualified during the entire term of office.

79638. The public member, or his or her alternate, shall have all the powers, rights, and privileges of any other member on the commission. The public member shall not have any financial interest in the beekeeping industry.

79639. The term of office of all members and alternates, except any ex officio member, shall be three years from the date of their election, but they may serve until their successors are elected.

79640. The commission may sue and be sued and enter into contracts. Copies of its proceedings, records, and acts, when authenticated, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

79641. A quorum of the commission is a majority of the producer members. Except as otherwise provided in this chapter, the vote of a majority of members present at a meeting at which there is a quorum shall constitute an act of the commission.

79642. The secretary or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission. However, the secretary is not entitled to attend an executive session of the commission called for the purpose of discussing potential or actual litigation against the department.

79643. No member of the commission or of any committee established by the commission, which may include nonmembers of the commission, shall receive a salary. Except for ex officio government members, the members may receive reasonable and necessary traveling expenses and meal allowances, as established by the commission, for each day spent in actual attendance at, or in traveling to and from, meetings of the commission or committees of the commission, or on special assignment for the commission.

79644. If the secretary is required to concur in a decision of the commission, he or she shall indicate his or her response to the commission within 15 working days from notification of the decision. The response may be a request that additional information be provided.

79645. All moneys received by any person from assessments levied under the authority of this chapter or otherwise received by the commission shall be deposited in banks designated by the commission and shall be disbursed by order of the commission through an agent or agents designated for that purpose. Any authorized agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in the state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

79646. The state shall not be liable for the acts of the commission or its contracts. Payment of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member, alternate member, or any agent of the commission shall be personally liable on the contracts of the commission and no member, alternate member, or agent of the commission shall be responsible individually in any way to any producer or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal or agent, except for his or her own individual acts of dishonesty or crime. No member or alternate member shall be held responsible individually for any act or omission of any other member or alternate member of the commission. The liability of the members and alternate members shall be several and not joint, and no member or alternate member shall be liable for the default of any other member or alternate member.

Article 4. Powers and Duties of the Commission

79651. The powers and duties of the commission include, but are not limited to, all of those contained in this article.

79652. The commission may adopt, amend, and repeal bylaws, rules, regulations, orders, and operating procedures necessary to carry out this chapter, including regulations governing appeals from actions taken by the commission pursuant to any of its regulations or operating procedures. These actions of the commission shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

79653. The commission may administer and enforce this chapter and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary for, the proper or advisable effectuation of this chapter.

79654. The commission may appoint its own officers, including a chairperson, one or more vice chairpersons, and other officers as it deems necessary. The officers have the powers and duties delegated to them by the commission.

79655. The commission may employ a person to serve at the pleasure of the commission as president and chief executive officer of the commission, and other personnel, including legal counsel, necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or agency of the state or federal government to perform the functions prescribed by this section under the control of the commission. If any person employed by the commission engages in any conduct that the secretary determines is not in the public interest or that he or she determines is in violation of this chapter, the secretary shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the secretary, the secretary may suspend or discharge the person.

79656. The commission may fix the compensation for all employees of the commission.

79657. The commission may appoint committees composed of both board members and nonmembers of the commission to advise the commission in carrying out this chapter.

79658. The commission may establish offices and incur expenses, enter into any and all contracts and agreements, including contracting in its name to receive or render services in formulating and conducting plans and programs, create liabilities, and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

79659. The commission shall keep accurate books, records, and accounts of all its dealings, which shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the secretary. A summary of the audit shall be reported to all producers and a copy of the summary shall also be submitted to the department. In addition, the secretary may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission.

79660. The commission may educate and instruct beekeepers, the general public, and government on all matters concerning the health and welfare of honeybees and the beekeeping industry.

79661. The commission may conduct market surveys and analyses, and present facts to, and negotiate with, state, federal, and foreign agencies on matters that affect the health and welfare of bees, and the beekeeping industry, and on matters that affect this chapter, to the extent permitted by federal law.

79662. The commission may conduct, and contract with others to conduct, research, including the study, analysis, accumulation, and dissemination of information obtained from that research or otherwise, which the commission deems will or may benefit the health and welfare of honeybees and the beekeeping industry.

79663. The commission may accept contributions or matching private, state, or federal funds, and employ or make contributions of funds to other persons or state or federal agencies, for purposes of carrying out this chapter.

79664. The commission may publish and distribute, without charge, bulletins or other communications for the dissemination of information to beekeepers.

79665. The commission shall establish an assessment rate to defray the operating costs of the commission.

79666. The commission shall adopt an annual budget according to generally accepted accounting practices. The secretary shall concur in the adoption of the budget prior to the encumbrance of

funds, except for encumbrances necessary to pay the compensation of employees of the commission.

79667. The commission shall submit to the secretary, for his or her concurrence, an annual statement of contemplated activities authorized pursuant to this chapter.

79668. The commission may investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

Article 5. Implementation and Voting Procedures

79671. (a) Within 30 days after the effective date of this chapter, the secretary shall issue a public notice that the department is preparing a list of beekeepers who are eligible to vote on the implementation of this chapter. The notice shall indicate that beekeepers eligible to vote in the implementation referendum must register with the department. The notice shall be placed in appropriate publications and shall include instructions on how to register.

(b) Within 180 days after the effective date of this chapter, the secretary shall establish a list of local and out-of-state producers, who are eligible to vote on the implementation of this chapter.

(c) The secretary shall require in the registration process that producers submit the names, mailing addresses, and number of colonies operated during the preceding marketing season and identify their district based on primary residence.

(d) Any producer whose name does not appear on the secretary's list may have his or her name placed on the list by filing with the secretary a signed statement identifying himself or herself as a producer and providing the required registration information specified in this section. Failure to be on the list does not exempt the producer from paying assessments under this chapter.

(e) Any eligible producer may contact other eligible producers in a form and manner prescribed by the secretary. Subsequent to the implementation of this chapter and the establishment of the commission, the commission shall prescribe the form and manner by which eligible producers may contact other producers.

79672. This chapter, except as necessary to conduct an implementation referendum vote, shall not become operative until

the secretary finds that at least 30 percent of the total number of the producers from the list established by the secretary participate, and either of the following occurs:

(a) Sixty-five percent of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting owned or operated a majority of the total quantity of colonies maintained in the preceding marketing season by all of the producers voting in the referendum.

(b) A majority of the producers who voted in the referendum voted in favor of this chapter, and the producers so voting owned or operated 65 percent or more of the total quantity of colonies maintained in the preceding marketing season by all of the producers voting in the referendum.

79673. The secretary shall establish a period in which to conduct the referendum which shall not be less than 10 days or more than 60 days in duration and may prescribe additional procedures necessary to conduct the referendum. If the initial period established is less than 60 days, the secretary may extend the period. However, the total referendum period may not exceed 60 days.

79674. Nonreceipt of a ballot shall not invalidate a referendum.

79675. If the secretary finds that a favorable vote has been given as provided in Section 79672, he or she shall so certify and give notice of the vote to all producers whose names and addresses are on file with the secretary.

79676. If the secretary finds that a favorable vote has not been given as provided in this article, he or she shall so certify and declare this chapter inoperative. The secretary may conduct another implementation referendum vote one or more years after the previous vote has been taken.

79677. (a) Upon certification of the commission, the secretary shall contact all producers in a manner determined by the secretary for the purpose of nominating and electing persons to the commission. To be eligible for election to the commission, nominees shall present to the secretary a nomination petition.

(b) Subsequent to the first selection of members of the commission, persons to be elected to the commission shall be selected pursuant to nomination and election procedures established by the commission with the concurrence of the secretary.

79678. Prior to the referendum vote conducted by the secretary pursuant to this article, the proponents of the commission shall deposit with the secretary an amount of funds determined necessary by the secretary to defray the expenses of preparing the necessary lists and information and conducting the vote. Any funds not used for this purpose shall be returned to the proponents of the commission who deposited the funds with the secretary. Upon establishment of the commission, the commission may reimburse the proponents of the commission for any funds deposited with the secretary and for any legal expenses and costs incurred in establishing the commission.

Article 6. Assessments and Records

79681. (a) The commission shall, not later than January 1 of each year, or as soon thereafter as possible, establish the assessment to be paid by the producers of 50 or more colonies for the marketing season.

(b) The assessment shall be levied annually on all bee colonies in California on March 1 of each year and not be more than one dollar (\$1) per colony.

79682. All proprietary information obtained by the commission or the secretary from any source, including the names and addresses of producers, shall be confidential and shall not be disclosed except when required by a court order after a hearing in a judicial proceeding involving this chapter. Information on volume shipments, hive value, and any other related information required for reports to governmental agencies, financial reports to the commission, or aggregate sales and inventory information, and any other information that gives only totals, but excludes individual information, may be disclosed by the commission.

79683. Every producer, including beekeepers exempt from the payment of assessments, shall keep a complete and accurate record of their total number of colonies used for commercial purposes. The records shall be in simple form and contain information as the commission shall prescribe. The records shall be retained by the beekeeper for five years and shall be offered and submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

79684. Any assessment that is levied as provided in this chapter is a personal debt of every producer so assessed.

79685. (a) Any person who fails to pay any assessment within 30 days of the due date shall pay, in addition to his or her assessment fee, a penalty of 10 percent of the amount of the assessment determined to be past due and, in addition, interest on the unpaid balance at the rate of 1.5 percent per month.

(b) In addition to any other penalty imposed, the commission may require any person who fails to pay any assessment or related charge pursuant to this article to furnish and maintain a surety bond in a form and amount and for a period of time specified by the commission as assurance that all payments to the commission will be made when due.

Article 7. Actions and Penalties

79691. A civil penalty not exceeding one thousand dollars (\$1,000) may be levied by the commission upon a person who willfully does any of the following:

(a) Renders or furnishes a false report, statement, or record required by the commission.

(b) Fails to render or furnish a report, statement, or record required by the commission.

(c) Conducts oneself in any way to affect the shipment of pollination units, bees, honey, or hive products in order to avoid payment of assessments.

(d) Secretes, destroys, or alters records required to be kept by this chapter.

79692. The commission shall establish procedures for the purpose of according individuals aggrieved by its actions or determinations an informal hearing before the commission, or before a committee of the commission designated for this purpose. Appeals from decisions of the commission may be made to the secretary. The determination of the secretary shall be subject to judicial review upon petition filed with the appropriate superior court.

79693. (a) The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and for obtaining injunctive relief or specific performance, relating to this chapter and the rules and

regulations adopted under this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated this chapter or any other rule or regulation of the commission, including, but not limited to, the nonpayment of assessments. No bond shall be required to be posted by the commission as a condition for the issuance of any writ of attachment or injunctive relief.

(b) A writ of attachment shall be issued pursuant to Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure is not required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or of inadequate remedy at law specified by Sections 526 and 527 of the Code of Civil Procedure is not required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding beekeeping until there is full compliance with, and satisfaction of, the judgment.

(d) Upon a favorable judgment for the commission, the court may order that the commission be reimbursed for reasonable attorney's fees and other actual related costs. Venue for these actions is at the domicile or place of business of the defendant or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

79694. Any action by the commission for any penalty or other remedy that is prescribed under this chapter shall be commenced within two years from the date of discovery of the alleged violation. Any action against the commission by any person shall be commenced within two years from the date of the alleged violation.

79695. The commission is not required to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

79696. The termination of this chapter shall not affect or waive any right, duty, obligation, or liability that has arisen or that may thereafter arise in connection with this chapter, release or

extinguish any violation of this chapter, or affect or impair any right or remedies of the commission with respect to any violation.

Article 8. Continuation or Suspension and Termination

79701. (a) In the fifth year of operation of this chapter and every fifth year thereafter, between January 1 and December 31, the secretary shall hold a public hearing, after providing proper notice to all persons subject to this chapter and any other persons or entities who have requested, in writing, notice of the hearing, to determine whether the operation of this chapter should be continued. If the secretary finds after the hearing that a substantial question exists among the persons assessed under this chapter regarding whether the operation of this chapter should be continued, the secretary shall submit the chapter to a reapproval referendum to be conducted among producers to determine whether the operations of this chapter shall be reapproved and continued in effect.

(b) If the secretary finds after conducting a hearing that no substantial question exists or, if a reapproval referendum is required, that a majority of the eligible producers voting in the referendum voted in favor of continuing the operations of this chapter, the secretary shall so certify and this chapter shall remain operative. If the secretary finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the current marketing season. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 79704.

79702. Following a hearing, and favorable referendum if required, the process specified in Section 79701 shall be conducted by the secretary every fifth year thereafter between January 1 and December 31, unless a referendum is conducted as the result of a petition pursuant to Section 79703.

79703. (a) Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the commission be suspended. Any suspension shall not become effective until the expiration of the current marketing season.

(b) The secretary shall, upon receipt of a recommendation, or may, after a public hearing to review a petition filed with him or her requesting such suspension, signed by 15 percent of the producers by number who owned and operated not less than 15 percent of the total quantity of colonies maintained in the immediately preceding marketing season, cause a referendum to be conducted among the listed producers to determine if the operations of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows by the weight of evidence that this chapter has not effectuated its declared purposes.

(c) The secretary shall establish a referendum period, which shall not be less than 10 or more than 60 days in duration. The secretary may prescribe additional procedures necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend the operation of this chapter, if the secretary finds that at least 30 percent of the total number of producers from the list established by the secretary participate, and that either of the following occurs:

(1) Sixty-five percent of the producers who voted in the referendum voted in favor of suspension, and the producers so voting operated a majority of the total quantity of honeybee colonies owned or operated by those producers voting in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting operated 65 percent or more of the total quantity of honeybee colonies owned or operated by those producers voting in the referendum.

79704. After the effective date of suspension of this chapter and of the commission, the operations of the commission shall be concluded and all moneys held by the commission, and moneys collected by assessment and not required to defray the expenses of concluding and terminating operations of the commission, shall be returned on a pro rata basis to all persons from whom assessments were collected in the immediately preceding current marketing season. However, if the commission finds that the amounts returnable are so small as to make impractical the computation and remitting of the pro rata refund to those persons, any moneys remaining and any moneys remaining after payment

of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into an appropriate state or federal program or used to fund activities related to the subject matter of this chapter.

79705. Upon suspension of the operation of this chapter and of the commission, the commission shall mail a copy of the notice of suspension to all producers affected by the suspension whose names and addresses are on file.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which adds Section 79682 to the Food and Agricultural Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to allow the California Apiary Research Commission to fully accomplish its goals, it is imperative to protect the interests of those persons submitting information to the commission to ensure that any personal or sensitive business information that this act requires those persons to submit is protected as confidential information.

Approved _____, 2010

Governor